

### **REMARKS**

Claims 1-16 remain in the application. Applicant asserts that no new matter has been added. Reconsideration of the Application is hereby requested.

### **Claim Rejections**

#### ***Rejections Under 35 U.S.C. § 102***

Claims 1-16 were rejected under 35 U.S.C. § 102(b), as being anticipated by Siegel et al. (U.S. Patent No. 5,548,718).

Siegel discloses a system “for determining software reliability...” that employ a mapping mechanism and an automated testing system. The automatic testing system indicates a number of hits to a failure and an elapsed time to failure, the combination of which provide an indication of the reliability of the software product. [Siegel, col. 2, ll. 50-59, *see, also*, FIG. 5] Thus, the system disclosed in Siegel calculates a benchmark for software product reliability based on the number of hits to a failure and an elapsed time to failure.

The present invention, on the other hand, is directed to a system that initially gathers known defect history for an application (Present Application, ¶[0016]). Once the defect data are gathered, the system generates a predicted business transaction failure rate for each defect item (*i.e.*, each potential factor for transaction failure given a known defect) (*Id.*, ¶[0017]). The individual failure rates are then combined to generate a predicted transaction failure rate (*Id.*, ¶[0018]). Thus, the system claimed in the present application collects data about specific defects in a specific environment and the combines the collected data to provide an indication of the probability of transaction success of a business transaction while interacting with a software application in a target computer environment.

Siegel et al. does not disclose the action of generating “an item-specific predicted business transaction failure rate based on the defect data items,” nor does it disclose the action of

“combining each item-specific predicted business transaction failure rate,” as recited in Claims 1 and 9.

The Office Action asserts that Siegel discloses “generating an item-specific predicted business transaction failure rate,” citing col. 5, lines 53-58 (Office Action, p. 3, ¶3). Applicant respectfully traverses this assertion, as the cited passage from Siegel describes a system in which a mapping mechanism (item 302) receives “tester data from a tester spreadsheet 308, an operational profile from [a] user spreadsheet 310 (selected by [a] party that wishes to obtain [a] hits-to-failure metric), and failure data from [a] failure database.” (Siegel, col. 5, lines 53-58) There is no mention in this passage, or in any other part of Siegel, of anything that generates an *item-specific* business transaction failure rate. This passage discloses only a system in which a mapping mechanism receives failure-related data. Reading further, the “mapping mechanism 302 creates a number of hits to failure (‘NHTF’) metric.” (Siegel, col. 5, lines 58-61). Thus, Siegel generates only an overall number of hits to failure metric without determining any sort of transaction failure rate that is item specific, as recited in the claims.

The Office Action also asserts that Siegel discloses “combining each item-specific predicted transaction failure rate ... so as to generate a combined business transaction failure rate,” citing col. 4, lines 60-64, FIG. 5 and col. 5, line 52—col. 6, line 24 (Office Action, p. 3, ¶4). Applicant respectfully traverses this assertion, as col. 4, lines 60-64 from Siegel only describes a system that combines “tester data, failure data, and an operational profile.” It makes no mention of “combining ... item-specific predicted business transaction failure rate[s] so as to generate a combined business transaction failure rate,” as recited in the independent claims. Similarly, FIG. 5 completely fails to show the combining of item-specific predicted business transaction failure rates and col. 5, line 52—col. 6, line 24 describes only a method of determining a mean hits-to-failure rate, but makes no mention of combining item-specific predicted failure rates.

Because Siegel completely fails to disclose either generating an item-specific predicted business transaction failure rates or combining item-specific predicted business transaction

failure rates to generate a combined business transaction failure rate, Applicant respectfully asserts that the independent claims are not anticipated by Siegel. Because the dependent claims all take the limitations of the claims from which they depend, Applicant asserts that they are not anticipated by Siegel. For these reasons, Applicant believes that this rejection has been overcome and requests that all remaining claims be allowed.

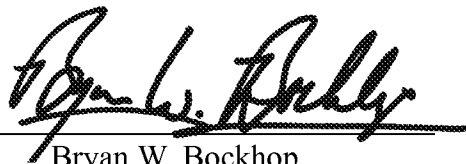
### **CONCLUSION**

Applicant believes that the rejections have been overcome for the reasons recited above. Therefore, Applicant respectfully requests that all remaining claims be allowed and that a timely Notice of Allowance be issued.

No additional fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 09-0461.

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Date



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